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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/837,084	04/18/2001	Andrea Maylene Carlson	1048-1139.1	8414

7590 03/24/2004

Lee, Mann, Smith, McWilliams, Sweeney & Ohlson  
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EXAMINER

FERGUSON, LAWRENCE D

ART UNIT	PAPER NUMBER
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1774

DATE MAILED: 03/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/837,084	<b>Applicant(s)</b> CARLSON ET AL.	
	<b>Examiner</b> Lawrence D Ferguson	<b>Art Unit</b> 1774	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 December 2003.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 3-6, 8-13 and 15-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 5, 8-13, 15, 16, 19 and 20 is/are rejected.
- 7) ☒ Claim(s) 3, 4, 6, 17 and 18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Response to Amendment***

1. This action is in response to the amendment mailed December 29, 2003.  
Claims 7 and 14 were canceled, claims 1,3-6, 8-13 and 15-20 were amended, rendering claims 1 and 3-6, 8-13 and 15-20 pending.

***Claim Rejections – 35 USC § 103(a)***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 5, 8-13, 15-16 and 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Warner et al. (U.S. 5,591,530).

Warner discloses a flexible multilayer packaging film (column 9, lines 42-49) that is used in thermoforming applications (column 9, lines 13-14). Warner further discloses the film is made used lamination and extrusion (column 8, lines 63-67) comprising biaxially oriented polyester layers (column 2, lines 5-20) along with additional functional layers including an ink-receptive layer, an adhesive coated graphic film and a gas barrier layer, where the functional layers may be employed singly or in combination with

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other functional layers (column 11, lines 7-46). The reference discloses the use of polyamide layers (column 9, lines 60-62) along with tie layers (column 7, lines 33-35). Although Warner does not explicitly teach the layers arranged as claimed, it would have been obvious to one of ordinary skill in the art to arrange the layers in the order as claimed by Applicant because Warner teaches the exact order of the individual layers is not critical (column 4, lines 48-50).

4. Claims 3-4, 6 and 17-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bland et al. (U.S. 6,040,061) teaches layers arranged randomly consisting of biaxially oriented polyester (column 3, lines 24-31) that are laminated and comprise a layer of adhesive (column 5, lines 6-20) where the material is thermoformable (column 11, lines 28-35).

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

### ***Response to Arguments***

7. Rejection of claim 1 under 35 USC 112, first paragraph has been withdrawn due to Applicant's amendment to the claim 1.

Applicant's arguments of rejection under 35 U.S.C. 103(a) as being unpatentable over Ramesh, U.S. Patent No. 6,346,285 in view of Kobayashi et al. (U.S. 5,643,659) and further in view of Kuriu et al. (U.S. 5,562,996) are moot based on grounds of new rejection.

### ***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lawrence Ferguson whose telephone number is 571-

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272-1522. The examiner can normally be reached on Monday through Friday 9:00 AM – 5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cynthia Kelly, can be reached on 571-272-1526. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Lawrence D. Ferguson  
Examiner  
Art Unit 1774

